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REPORT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN 1 JANUARY AND 31 DECEMBER 1994

Identical letters dated 15 October 1997 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council

I am attaching, for your consideration and that of the members of the Security Council and the General Assembly, a letter dated 1 August 1997 from the President of the International Criminal Tribunal for Rwanda. In his letter, President Kama raises the problem faced by the Tribunal owing to the increase in the number of individuals detained at the Tribunal's Detention Facility in Arusha, in anticipation that all or most of them will be indicted by the Tribunal.

President Kama notes that, taking into account its current capacity and depending on the number of persons who will be indicted, the Tribunal might require considerable time to complete all the trials. Such a development would negatively affect the right of the accused to be tried without delay and certainly disappoint the expectations of the Rwandan people and the international community. With a view to addressing the above requirements, President Kama suggests that a third Trial Chamber of the Tribunal, staffed by three additional judges, be established.

It will be recalled that by its resolution 955 (1994) of 8 November 1994, which incorporates the statute of the Tribunal, the Security Council established two Trial Chambers composed of three judges each. The Council, in paragraph 7 of the resolution, expressly reserved the possibility of increasing the number of judges and Trial Chambers should this become necessary.

The establishment of a third Trial Chamber would require the amendment of articles 10 and 11 of the statute by the Security Council. Following such amendment, the General Assembly would be requested to approve the related increase in the budget of the Tribunal. Finally, the Security Council and the General Assembly would have to elect three additional judges in accordance with the statute of the Tribunal.

The Registry of the Tribunal estimated the costs of establishing the third Trial Chamber at $5,582,000 for the year 1998. More detailed estimates will be made available to the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee.

I would appreciate it if you would bring the present letter and its attachment to the attention of members of the Security Council and the General Assembly for their approval of the request for the establishment of an additional Trial Chamber for the Tribunal.

(Signed) Kofi A. ANNAN

ANNEX

Letter dated 1 August 1997 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

I have the honour to bring to your attention the following problem facing the International Criminal Tribunal for Rwanda so that it may be considered for presentation to the Security Council.

Following the arrest of 8 people by the Kenyan authorities, at the request of the International Criminal Tribunal for Rwanda, and their transfer to the Detention Facility in Arusha, 20 detainees are currently incarcerated in the Facility. Given that 14 of these persons have already been indicted and that the 6 others may be indicted, we have had to envisage a revision of our judicial calendar in order to render expeditious justice, so as to meet the expectations of the Rwandan people and the international community, and furthermore, to ensure the respect of the fundamental right of the accused to be tried without undue delay.

A cursory assessment shows that if all of the incarcerated suspects were indicted, it would take us at least 88 months to conclude the trials of the persons detained in Arusha alone. This calculation is based on an average trial length not exceeding four months per person, although our experience has shown us that proceedings before international criminal courts require more time, as we have noted both in the three ongoing trials in Arusha and in the case of the International Tribunal for the former Yugoslavia, where the Tadic trial took more than one year.

It will obviously be difficult, if not impossible, for us to judge these people between now and the end of our mandate in May 1999 if we are to continue with only six judges, notwithstanding the fact that, by virtue of rule 15 of our rules of procedure and evidence, a judge is disqualified from hearing a case on the merits each time he or she has considered the indictment or indictments related thereto. Hence, in our view, there is an overwhelming necessity to increase the number of judges, in order to compose a third Trial Chamber, as provided in paragraph 7 of Security Council resolution 955 (1994). Indeed, the Council, in that resolution, decided to consider increasing the number of judges and Trial Chambers of the International Tribunal if it becomes necessary.

Since it is my belief that you share this point of view, I would be very grateful if you would kindly notify the Security Council of this matter as soon as possible.

Finally, allow me to take this opportunity to thank you on behalf of my colleagues and on my own behalf for all the initiatives you have personally taken in the interest of the Tribunal, since your arrival at the head of the Secretariat, and to reiterate our firm determination to do everything so that justice may be done.

(Signed) Laïty KAMA
President